A.F.R.

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI S.R. NAYAK, CJ
& HON'BLE SHRI D.R. DESHMUKH, J.

Writ Petition No.1062 of 2004

ORDER FOR CONSIDERATION

Sd/-

CHIEF JUSTICE
14/09/2006

HON'BLE SHRI D.R. DESHMUKH, J I agree

Sd/-
Dilip Raosaheb Deshmukh
Judge
16/09/2006

POST IT FOR PRONOUNCEMENT
OF ORDER ON: **19/09/2006**

Sd/-

CHIEF JUSTICE
18/09/2006

A.F.R. 795

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

DIVISION BENCH

CORAM: HON'BLE SHRI S.R. NAYAK, CJ

& HON'BLE SHRI D.R. DESHMUKH, J.

Writ Petition (PIL) No. 1062 of 2004

PETITIONERS

1. Amit Singh Walia Son of Lekhraj Walia, aged 24 years, R/o 29/919, Civil Lines, Opp. PSC Office, Shankar Nagar Road, Raipur (C.G.) by Profession Advocate.
2. Rajendra Kumar, age 42 years, S/o. Shri Daulat Ram, R/o. Vidya Nagar, Bilaspur (C.G.) by Profession free Lance Journalists.

VERSUS

RESPONDENTS

1. THE STATE OF C.G. THROUGH The Principal Secretary, Department of Revenue, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
2. THE COLLECTOR, Raigarh (C.G.)
3. SMT. SHASHI KUMAR, aged 40 years, W/o. Arun Mishra, Resident of Village Shivpuri P.C. No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)
4. SMT. PARVATI KUMARI TIWARI aged 42 years, W/o. Awadhesh Tiwari Resident of Village Shivpuri P.C. No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)
5. SMT. SUSHMA NAIK, D/o. Late Hari Prasad Naik, Resident of Village Shivpuri P.C.No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)
6. SHRI RAJKISHORE MISHRA, aged 45 years S/o. Bachchulal Mishra, Resident of Village Shivpuri P.C. No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)
7. SHRI SUDHIR KUMAR MISHRA, aged 45 years, S/o. Suresh Chandra Mishra, Resident of Village Shivpuri P.C.No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)

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8. Smt. Shikha Rani Naik, aged 45 years, W/o. Shri Tarkeshwar Naik, Resident of Village Shivpuri P.C. No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)

9. SHRI DINESH KUMAR, aged 45 years, S/o. Shri Mahadev Resident of Village Shivpuri P.C. No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)

10. TARKESHWAR NAIK, aged about 48 years, S/o. Late Hari Prasad Naik, Resident of Station Road, Raigarh (C.G.)

11. SMT. TARLIKA KUMAR, aged 42 years, D/o. Mahendra Nath and W/o. Ratan Kumar Resident of Village Shivpuri P.C. No.15, R.I. Circle, Block Tahsil & District Raigarh (C.G.)

12. SHRI ASHOK MISHRA, aged 52 years S/o. Vishnu Prasad Mishra Resident of Naik Bada, Station Road, Raigarh, (C.G.)

13. SHANKAR BHAGWAN NANDESHWAR, Mahadev Mandir through Sarvarkar Tarkeshwar Naik S/o. Late Hari Prasad Naik, Resident of Naikbada, Station Road, Raigarh (C.G.)

14. SMT. SITA RANI NAIK, aged 77 years, Late Hari Prasad Naik, Resident of Naikbada, Station Road, Raigarh (C.G.)

15. MR. K. RUDRASEN SINDHU, aged 50 years S/o. Choudhry Mitrasen Sindhu, Resident of 96/4, Sindhu Bhavan, Moddle Town, Rantak (Hariyana)

16. VIRSEN SINDHU, aged 45 years S/o. Choudhry Mitrasen Sindhu Resident of 96/4, Sindhu Bhawan, Moddle Town, Rontak (Haryana)

17. DEVSUMAN SINGHU, aged 30 years, S/o. Choudhry Mitrasen Sindhu, Resident of 96/4, Sindhu Bhawan, Moddle Town, Rohtak (Haryana)

18. SATYAPAL SINDHU, aged 32 years, S/o. Choudhry Mitrasen Sindhu, Resident of 96/4, Sindhu Bhawan, Moddle Town, Rohtak (Haryana)

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19. KIRPAL SINDHU, aged 40 years, S/o. Choudhry Mitrasen Sindhu, Resident of 96/4, Sindhu Bhawan, Moddle Town, Rohtak (Haryana)

20. Choudhry Mitrasen Sindhu, aged 73 years, S/o. Choudhry Shirshl Ram Sindhu, Resident of 96/4, Sindhu Bhawan, Moddle Town, Rohtak (Haryana)

21. CAPTAIN ABHIMANYU SINDHU, aged 47 years, S/o. Choudhry Mitrasen Sindhu, Resident of 96/4, Sindhu Bhawan, Moddle Town, Rohtak (Haryana)

22. PARAM MITRA MANAV NIRMAN SANSTHAN, through Captain Abhimanyu Sindhu, Resident of 96/4, Sindhu Bhawan, Moddle Town, Rohtak (Haryana)

23. AJAY PAL, aged 29 years, S/o. Shri Bhagat Singh by caste Jaat Resident of Village and P.O. Khandakhedi Tahsil Hansi District Hisaar (Haryana)

24. VIJAY PAL, aged 32 years, S/o. Bhagat Singh by caste Jaat Resident of Village and P.O. Kahndakhedi, Tahsil Hansi District Hisaar (Haryana)

Present:-

Shri B.P. Sharma with Shri Ajit Singh, Advocates for the petitioners.

Shri Prashant Mishra, Additional Advocate General for the State/ respondents No.1 & 2.

Shri Manindra Shrivastava, Senior Advocate with Shri Ashish Shrivastava and Shri Amrito Das, Advocates for respondents No.5, 6, 7, 8 & 10.

Shri K.N. Bhatt, Senior Advocate with Shri Prateek Sharma, Advocate for respondents No.15 to 24.

ORDER

(Passed on 19 September, 2006)

The following order of the Court was passed by **S.R. NAYAK, CJ.** :

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This writ petition is filed by Shri Amit Singh Walia, S/o Shri Lekhraj Walia, who is a practicing Advocate in Raipur and partner of V.K. Munshi & associates, a law firm and Shri Rajendra Kumar, S/o Shri Daulat Ram, a Freelance Journalist, as a Public Interest Litigation (PIL) to espouse a public cause. What prompted them to file this PIL, in their own words, is the following circumstance :

> "The petitioners are citizens of the India and are filing the present writ petition in public interest to expose the fraudulent transfers of more than 400 acres of valuable forest land situated at village Shivpuri P.C. No.15, Bandobast No.398, R.I. Circle, Block, Tahsil and District Raigarh (C.G.) belonging to the State of Chhattisgarh by the Respondents 3 to 14 in favour of the Respondent No.15 to 24 through 13 different Deeds of Sale executed between 26-12-1996 to 16-08-2001, notwithstanding the fact that the aforesaid 400 acres of forest land had already vested in the State firstly by virtue of section 3 of M.P. Abolition of Proprietary Rights (Estates, Mahals & Alienated Lands) Act, 1950 (hereinafter called "the 1950 Act") and secondly by virtue of section 12 of the M.P. Ceiling on Agriculture Holdings Act, 1960 (hereinafter called "the 1960 Act") and as such the respondent Nos. 3 to 14 had no right, title or interest in the said land on the dates of the said 13 deeds of sale. Although according to a very modest estimate the market value of the aforesaid 400 acres of the forest land with several lacs of trees standing thereon on the date of filing of this writ petition works out more than 50 crores, the entire land had been sold for a nominal consideration of Rs.18,04,442/- in the aggregate through the aforesaid 13 fraudulent Deeds of sale. In fact, the petitioners as public spirited persons have been constrained to file the present writ petition in

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public interest on account of the gross negligence, inaction, apathy and/or connivance between the directly concerned officers of the State Government and the family members of Late Hari Prasad Naik, the original owners of the aforesaid lands prior to vesting by the 1950 Act and the 1960 Act in carrying out the directions given by Division Bench of the High Court of Madhya Pradesh at Jabalpur in writ petition being M.P.No. 275 of 1982 in the case of State of M.P. vs. Board of Revenue and others reported in 1983 J.L.J. 206. A copy of the aforesaid reported judgment is annexed herewith as **ANNEXURE – P/1** for facility of reference."

(2) The background facts of the case, in brief, are as follows :

One Hariprasad Naik was proprietor of village Shivpuri in Raigarh District. The proprietary rights were abolished by the Madhya Pradesh Abolition of Proprietary Rights Act, 1950 (for short "1950 Act") with effect from 31-03-1951 which was the date of vesting under the said Act. The consequences of vesting are given in Section 4 of the 1950 Act and as per which the land covered under the 1950 Act vests in the State free from all encumbrances, all rights, title and interest of the proprietor in the land of a proprietary village including grass land, scrub jungle, forest etc. Under the 1950 Act, the following lands were allotted in Bhoomiswami rights to the ex-proprietor Hariprasad Naik, his wife and his other relations in the family and the details are as follows : (i) Hariprasad Naik, Khasra No.12, area 496.76 acres; (ii) Krishna Kumar (wife's sister of Hariprasad), Khasra Nos.30 and 39, area 183.32 acres; (iii) Sitarani, w/o Hariprasad, Khasra Nos.26, 27 and 28 area 245.00 acres and (iv) Tarlika Kumari, d/o Krishna Kumari, Khasra No.11, area 76.73 acres.

(3) After coming into force of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (for short "1960 Act"), four ceiling cases were initiated in respect of the aforesaid holders. The ceiling case in respect of Hariprasad Naik was Case No.178/8/90-B/63/64. The Competent Authority by order dated 19-07-1972 held that the holder was entitled to retain only 90 acres and declared 406.76 acres as surplus. The ceiling case in respect of the holding of Krishna Kumari was Case No.4/A-90-B/1969-70. The Competent Authority by order dated 06-07-1972 allowed the holder to retain 105 acres of land and declared 78.32 acres as surplus. The ceiling case in respect of Sitarani was Case No.3/A-90-B/1969-70. In this, the Competent Authority was allowed Sitarani to retain 75 acres of land and 170 acres were declared as surplus. The ceiling case in respect of Tarlika Kumari was Case No.1/A-90-B/1969-70. The Competent Authority vide its order dated 07-07-1972 allowed her to retain an area of 76.73 acres. The orders of the Competent Authority in the aforesaid ceiling cases were affirmed in the appeals filed by the holders to the Collector and the Additional Commissioner. The consequence/ result of the aforesaid ceiling cases could be summarized, for the sake of convenience, as follows: -

Holder	**Land allowed to be retained**	**Surplus declared**
Hariprasad Naik	90 acres	406.76 acres
Krishna Kumari	105 acres	78.32 acres
Sitarani	75 acres	170.00 acres
Tarlika Kumari	76.73 acres	N I L

(4) When the matter stood thus, Hariprasad Naik and his relatives aforesaid transferred their holdings by four sale-deeds executed on

17-01-1967 in favour of one Mamanchand and his family members/relations. The details of these transfers are as follows : (i) Hariprasad Naik sold for Rs.14,000 the entire 496.76 acres of land to Shambhu Ram, Narsinghdas both sons of Mamanchand and Shakuntala Devi d/o Mamanchand; (ii) Krishna Kumari sold for Rs.6,000 the entire 183.32 acres to Anand Kumar, minor son of Mamanchand and Ushabai, minor daughter of Mamanchand; (iii) Sitarani sold for Rs.7,000 the entire 245.00 acres of land to Smt. Kamlabai, w/o Mamanchand and Bhagwatibai, d/o Mamanchand; (iv) Tarlika Kumari sold for Rs.3,000 the entire 76.73 acres to Mamanchand; and (v) Mamanchand in his turn transferred 35 acres of land out of 76.73 acres purchased from Tarlika Kumari to his son-in-law Sajankumar (husband of Shakuntala Devi).

(5) The purchasers on the basis of the aforesaid sale-deeds applied for mutation. The Tahsildar by order dated 12-04-1967 rejected the applications for mutation on the ground that the transfers violated Sections 5 and 7 of the 1960 Act and Section 165(4) of the M.P. Land Revenue Code, 1959 (for short "the Code"). The appeals by the purchasers were dismissed by the Collector. Further appeals to the Commissioner were also dismissed on 19-10-1969.

(6) The 1960 Act was drastically amended by two Acts, Act No.12 of 1974 and Act No.13 of 1974, which came into force on 07-03-1974. By these amendments the ceiling limit was reduced and certain exemptions were withdrawn. Three fresh ceiling cases after these amendments were commenced before the Competent Authority. The first case is Case No.16/A-90-B/1974-75 *(State vs. Shambhuram, Narsingdas and Shakuntala)*. This case was instituted on a return purporting to have been

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submitted by Hariprasad Naik through one of the purchasers, namely, Shambhuram, in respect of the entire area of 496.76 acres purchased from Hariprasad Naik for Rs.14,000/- and stating that the earlier ceiling case against him was pending, although it had been decided by order dated 19-07-1972 and an area of 406.76 acres was declared surplus. This case was decided by the Competent Authority on 24-03-1976 and an area of 403.76 acres was declared as surplus. This was slightly modified by the Collector in appeal decided on 02-09-1976 and 412.76 acres were declared as surplus. The second ceiling case is Case No.18-A/90-B/74-75 (State v. Mamanchand). This case covered the land purchased by Mamanchand from Tarlika Kumari in the names of his minor children and in his name from Krishna Kumar minus 35 acres of land which he transferred in favour of his son-in-law Sajankumar. By order of the Competent Authority dated 20-03-1976 as modified in appeal Mamanchand was allowed to retain 63 acres for himself and his minor children constituting the family unit and 83.73 acres were declared surplus. In the third ceiling case against Sajankumar decided by the Competent Authority on 07-01-1976, five acres were declared as surplus and Sajankumar was allowed to retain 30 acres. The result of these ceiling cases is as follows: -

Ceiling Case	Land allowed to be retained	Land declared surplus
16/A-90(B)74-75	54 acres to Shambhuram S/o Mamanchand. 30 acres to Shakuntala d/o Mamanchand.	412.76 acres

18/A-90(B)74-75	63 acres to Mamanchand as representing the family unit consisting of himself and four minor children.	83.73 acres
766-A-90(B)74-75	30 acres to Sajan Kumar son-in-law of Mamanchand	5 acres

(7) In ceiling case No.16/A-90-B/74-75, the Competent Authority allowed Rs.8,255.20 as compensation for the surplus land. Similarly, in ceiling case No.18/A-90-B/74-75, the Competent Authority allowed Rs.1,674.60 as compensation and in ceiling case No.766-A-90-B/7-75, the Competent Authority allowed Rs.100/- as compensation for the land declared to be surplus. Applications were filed on 06-04-1977 for additional compensation for trees in accordance with Section 16 (2) as amended by Act No.13 of 1974 and Rule 3-A of the Rules made under that provision. The Tahsildar counted 3,11,246 trees in the first case, 43,972 in the second case and 4,818 in the third case. On this basis, the Competent Authority by three orders passed on 04-12-1979 allowed Rs.32,26,688/- as compensation for trees in the first case (No.16/A-90-B/74-75) to Shambhuram, Narsinghdas, sons of Mamanchand, and Shakuntala D/o Mamanchand ; Rs.4,44,776/- in the second case (No.18-A (B)/74-75) to Mamanchand and Rs.49,679/- in the third case (No.766-A-90(B)/74-75) to Sajankumar. These persons not being satisfied even with more than Rs.37 lakhs as compensation filed three appeals before the Collector which were dismissed by three orders dated 31-03-1980. Thereafter, three revisions were filed by these persons before the Board of

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Revenue which by order dated 14-08-1981 allowed the revisions and remanded the cases to the Competent Authority for recalculating the additional compensation payable in respect of trees with certain directions. These directions are that Mahua, Char, Jamun, Tendu and Awala trees be treated as fruit bearing trees for purposes of compensation and even bamboo and bushes should be counted as trees.

(8) Mamanchand, Shambhuram, Narsinghdas, Shakuntala and Sajankumar not being satisfied with the direction of the Board of Revenue filed Misc. Petition No.1051 of 1981 in the High Court of Madhya Pradesh for awarding the market value of the trees as compensation and also for a declaration that Rule 3-A and Form A-2 are invalid. The State Government contested the claim in Misc. Petition No.1051 of 1981. In addition, the State Government filed Misc. Petition No.275 of 1982 for challenging the entire proceedings taken in the second set of ceiling cases and for quashing all orders made in them including the orders relating to payment of compensation. A Division Bench of the High Court of Madhya Pradesh allowed Misc. Petition No.275 of 1982 filed by the State Government vide its order dated 04-01-1983 and quashed the entire proceedings and all orders of the Competent Authority in three ceiling cases (Nos.16-A/90-B/74-75; 18-A/90-B/74-75 and 766-A/90-B/74-75) including the orders for payment of compensation, additional compensation and all orders passed in appeal and revisions arising out of those cases including the orders of the Board of Revenue dated 14-08-1981. While doing so, the Division Bench was pleased to observe that *"it would be open to the Competent Authority to take fresh proceedings in respect of lands covered by these cases against Hariprasad Naik, Krishna Kumari and Tarlika Kumari but only to the extent*

of the lands which are not declared surplus in the first set of ceiling cases against these persons".

(9) Furthermore, the Division Bench while meeting an argument that as the lands were mostly covered by the forest, they did not fall within the 1960 Act, was pleased to observe in para 20 of the certified copy of the order thus:-

> "During the course of arguments, it was also hinted that as the lands were mostly covered by forest they did not fall within the Ceiling Act. In our opinion, that is not the correct legal position. The lands though covered by forest were held by Naik and his relations in Bhumiswami rights for agricultural purposes. The lands, therefore, came within the definition of land in section 2 (k). It is another matter that these lands should not have been settled with Naik and his relations under the Abolition of Proprietary Rights Act. We have already said that forest land could not be described as home-farm and could not be settled with the proprietor. However, the fact remains that Naik and his relations somehow got these lands settled in Bhumiswami rights and it is now too late to undo that mischief. There is also no prayer in the petition filed by the State to cancel the settlement made in favour of Naik and his relations who are also not parties to these petitions."

(10) At this stage itself, it needs to be noticed that the above order of the Division Bench is reported in ***1983 JLJ 206*** and ***AIR 1983 MP 111***. In the JLJ and AIR the word '**now**' occurring in para 20 of the order has been wrongly substituted by the word '**not**'. Since the entire claim of the petitioners is based on the purported observation of the High Court of Madhya Pradesh that ***'it is not too late to undo that mischief'***, and

actually the Division Bench did not make such observation in para 20, Respondents No.15, 16, 17, 20, 21 & 22 with their additional return dated 18-04-2006 have produced the certified copy of the order passed in Misc. Petition No.275 of 1982 to show that the Division Bench has observed that "it is now too late to undo that mischief" and what is reported in JLJ and AIR in that regard is incorrect. In the course of the arguments, it is fairly agreed by all the learned counsel appearing for the parties that the reporters of the order wrongly substituted the word '**not**' in the place of the word '**now**'.

(11) The petitioners have prayed for the following reliefs: -

> "(A) A writ of and/or in the nature of mandamus do issue calling upon the Respondents 1 and 2 to carry out the directions contained in para 21 of the reported judgment Annexure P/1 in letter and spirit.
>
> (B) A writ of and/or in the nature of mandamus do issue calling upon the Collector Raigarh to take charge of the entire area of 1001.81 acres of forest land comprised in the ex-proprietary village Shivpuri in accordance with Section 7 of the 1950 Act.
>
> (C) A writ of and/or in the nature of mandamus do issue directing the Respondent No.2 as the Competent Authority to take immediate steps in respect of the entire area of forest land comprised in ex-proprietary village shivpuri in Raigarh District in conformity with Section 11-A (1) (b) and (c) of the 1960 Act.
>
> (D) A writ of and/or in the nature of certiorari do issue calling upon the Respondents 1 and 2 to produce before the Hon'ble Court all the revenue records pertaining to ex-proprietary village Shivpuri for the years 1947-48 to date an also all relevant files for the

same period whereby large area of 1001.81 acres of valuable forest land had been illegally settled in bhumi swami rights in favour of the original allottees Naik and the family members/relations so that conscionable justice may be done by setting aside and quashing the aforesaid illegal settlements.

(E) A writ of and/or in the nature of certiorari do issue quashing the 13 fraudulent sale deeds Annexure P/2 (Colly) illegally executed by and between Respondents Nos.3 to 14 as the Sellers and Respondent Nos.15 to 24 as the purchasers of the surplus land.

(F) It be declared that the transactions effect through the 13 fraudulent Deeds of sale Annexure P/2 (Colly) are ex-facie null void and non est in the eyes of law being hit by the provisions of the 1950 Act and the 1960 Act.

(G) To order the Central Bureau of Investigation (CBI) to conduct a through probe into the clandestine and fraudulent transactions effected through the 13 Deeds of sale Annexure P/2 (Colly) in order to ferret out the rat in the whole affair and after proper investigation to launch criminal prosecution against the Respondents 3 to 24 and other persons connected with the crime, under Ss.406, 420, 467, 468 and 471 IPC.

(H) To pass such further or necessary order or to give such further or necessary directions with a view to protect the interest of the State Government in respect of 400 acres of forest land as well as forest growth and trees standing thereon as may appear to the Hon'ble Court just fit and proper in the facts and circumstances of the present case."

(12) The writ petition was opposed by the State of Chhattisgarh & Collector, Raigarh, respondents No.1 & 2, respectively, by filing return.

Similarly, the writ petition was contested by respondents No.15, 16, 17, 20, 21 & 22 by filing a separate return dated 25-03-2006 and additional return dated 18-04-2006. The petitioners have also filed rejoinder styled as 'short rejoinder' to the return filed by respondents No.1 & 2 dated 22-03-2006.

(13) Although, the writ petition runs to as many as 41 full scap typed pages and the socalled brief synopsis to 28 pages, if we may summarise and crystallize the issues that arise from the pleadings of the petitioners, only three issues arise for decision-making and they are: -

(i) that the area of 1001.81 acres situate in Village Shivpuri, District Raigarh belonging to ex-proprietor late Hariprasad Naik have already vested in the State with effect from 31-03-1951 by virtue of operation of the provisions of the 1950 Act and that no portion of the said land could be allotted/settled in the name of late Hariprasad Naik or his relatives;

(ii) that the direction issued by the Division Bench of the High Court of Madhya Pradesh in its order dated 04-01-1983 passed in Misc. Petition No.275 of 1982 is not complied with by the State Government;

(iii) that the transfer of about 346.73 acres of land out of 1001.81 acres of land in favour of respondents No.15 to 24 by respondents No.3 to 14 is illegal, because, the entire 1001.81 acres of land has already vested in the State Government and that sale-deeds have been executed by defrauding the State revenue inasmuch as proper stamp duty has not been paid on the sale-deeds, and that the power of

attorney executed by the holders in favour of their attorney is defective inasmuch as the same was not registered.

(14) We heard learned counsel for the parties for final disposal of the case on 05-09-2006, 06-09-2006 & 07-09.2006 and after conclusion of the hearing, the order was reserved.

(15) Shri B.P. Sharma, learned counsel for the petitioner would reiterate and highlight on the same points raised by the petitioner in paragraphs A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P and Q of the memorandum of the writ petition, and in support of those grounds he would also cite certain decisions touching the merits of the matter and contend that the settlement orders and ceiling orders made under the 1950 Act and 1960 Act were not in accordance with law, and that the subsequent sale transactions entered into by the holders of the land with the purchasers are also *ex facie* illegal and fraudulent.

(16) In the course of arguments, Shri K.N. Bhatt, learned Senior Counsel appearing for respondents No.15 to 24, at the threshold, raised the question of maintainability of this writ petition and contended that the writ petition is liable to be dismissed in *limine* and the merits of the case could not be gone into by this Court at the instance of the petitioners. Elaborating his submission, Shri K.N. Bhatt would draw our attention to the return filed on behalf of respondents No.15 to 17 & 20 to 22 and would point out that petitioner No.1, namely, Amit Singh Walia is a counsel for M/s. Maruti Clean Coal and Power Limited (for short 'M/s. Maruti') which company is a rival in business to the company of M/s Aryan, owned by some of the contesting private respondents (referred to also as "Sindhu family") in the petition. It was pointed out by Shri K.N. Bhatt that petitioner

No.1 along with another counsel, namely, Shri Manish Yadav (in whose conjunction) has also filed Writ Petition Nos. 737 of 2006, 3697 of 2005, 310 of 2006 and several others as PILs against the family members and the company owned by Sindhu family and some of the contesting private respondents, and that petitioner No.1 also executed a Vakalatnama on 20-01-2005 for M/s Maruti in Civil Suit No.90-A of 2004 instituted by the South Eastern Coalfields Limited (for short "SECL") pending in the Court of Civil Judge, Class-II, Katghora, District Korba countering the allegations of the SECL that M/s Maruti has encroached forest lands belonging to the SECL and the suit land does not belong to the Central Government/ SECL. Shri K.N. Bhatt would submit that this writ petition is instituted on behalf of M/s Maruti in the garb of PIL obviously infuriated due to the aforesaid facts and reasons. Shri K.N. Bhatt would contend that even the petitioner No.2 has merely lent his name for extraneous considerations to file this PIL and this PIL is not a *bona fide* PIL nor the petitioners could be regarded as *pro bono* public characters. Shri K.N. Bhatt would submit that this writ petition is totally motivated, vexatious and is filed for extraneous considerations to serve the interest of M/s Maruti and not to serve any public interest. Shri K.N. Bhatt would submit that such a writ petition should be dismissed in *limine* with exemplary costs in view of the settled position in law as has been done by the Apex Court of the country in large number of decisions. In support of his submission, Shri K.N. Bhatt would place reliance on the three-Judge Bench judgment of the Hon'ble Apex Court in **T.N. Godavarman Thirumulpad vs. Union of India and Others** [1]**; Kushum Lata vs. Union of India and Others** [2] **.**

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1. (2006) 5 S.C.C. 28
2. (2006) 6 S.C.C. 180 = 2006 (7) SCALE 41.

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(17) Shri K.N. Bhatt next contended that this writ petition is liable to be dismissed in *limine* without going into the merits of the matter on the ground of inordinate delay and laches also. Shri K.N. Bhatt would submit that simply because this writ petition is filed as a PIL, enormous length of delay in instituting the writ petition cannot be overlooked or condoned. The ground of delay and laches is equally available to the respondents to seek dismissal of the writ petition in the case of PILs also. In support of his submission, learned Sr. counsel would place reliance on the judgment of the Hon'ble Apex Court in **R& M Trust vs. Koramangala Residents Vigilance Group and Others** [3]. Shri K.N. Bhatt would point out that by filing this writ petition, the petitioners seek to reopen the issues which were concluded in the 1950s and 1960s.

(18) Shri K.N. Bhatt also pointed out that the settlement orders passed under the 1950 Act in favour of Late Hariprasad Naik remained unchallenged till date and as long as they remain unchallenged, the petitioners cannot indirectly seek nullification of those settlement orders. Shri K.N. Bhatt would contend that the cause for filing this writ petition is based on misreading of the observations made by the Division Bench of the High Court of Madhya Pradesh in order passed in Misc. Petition No.275 of 1982. Shri K.N. Bhatt would contend that the petitioners before filing the writ petition ought to have verified and known that in the order reported in JLJ, the word 'not' is wrongly substituted in place of the correct word 'now' occurring in para 20 of the order, and that that error is fully exploited by the petitioners to serve the interest of their masters M/s.Maruti. Lastly, Shri K.N. Bhatt would submit that although there is no

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3. (2005) 3 SCC 91

direction from the Division Bench of the High Court of Madhya Pradesh to initiate fresh proceedings in respect of the lands covered by the three ceiling cases (Nos.16-A/90-B/74-75; 18-A/90-B/74-75 and 766-A/90-B/74-75) to the extent of the lands which are not declared surplus in the first set of the ceiling cases, but only reserved liberty to the Competent Authority to initiate fresh proceedings if it deems fit, the Competent Authority in due deference to the observation of the High Court of Madhya Pradesh has already initiated fresh proceedings in respect of the lands which are not declared surplus in the first set of ceiling cases and they are pending, and in view of this development also the writ petition is liable to be dismissed. Shri K.N. Bhatt would point out that granting of several reliefs sought in the writ petition would arise depending upon the result of the proceedings already initiated by the Competent Authority. Shri K.N. Bhatt would contend that if the reliefs sought in the writ petition are granted, nothing will remain for the Competent Authority to decide in the proceedings already initiated by it in pursuance of the liberty reserved to it by the Division Bench of the High Court of Madhya Pradesh in Misc. Petition No. 275 of 1982.

(19) Shri Manindra Shrivastava, learned Sr. counsel appearing for respondents 5,6, 7,8 and 10 while adopting and supplementing the arguments of Shri K.N. Bhatt would emphasize on the finality of the settlements made in favour of Hariprasad Naik and his family members and highlight that since the settlements made in favour of them under the 1950 and 1960 Acts are not yet questioned or annulled by any Authority or Court, at this distance of time, the petitioners cannot indirectly seek upsetting of the settlement orders. Shri Manindra Shrivastava also pointed out that those settlement orders are not placed before the Court

nor any relief is sought against the settlement orders. He would point out that several reliefs sought in the writ petition cannot be granted unless and until the settlement orders passed by the Competent Authorities under the 1950 and 1960 Acts are set aside by the Competent Statutory Authority and/or the Court. He would point out that even after the judgment of the Division Bench of High Court of Madhya Pradesh, the Government did not take any steps, according to him, quite correctly and justifiably, to set aside or upset the settlement orders. Shri Manindra Shrivastava would also point out that voluminous records, emanating from the Government files and records of the Statutory Authorities, some of which are confidential in nature, are produced by the petitioners without disclosing the source of those documents. Shri Manindra Shrivastava would point out that though in the return filed by their clients source of those documents was demanded, the petitioners have not yet disclosed the source of those documents.

(20) Shri Prashant Mishra, learned Additional Advocate General for the State of Chhattisgarh and its authorities while supporting the arguments of the learned counsel for the contesting private respondents would submit that the petitioners are not *pro bono* public characters and therefore, they have no *locus standi* to maintain this writ petition. He also submitted that the whole basis of the case is based on a deliberate and erroneous reading of the observation in para 20 of the order of the Division Bench of the High Court of Madhya Pradesh passed in Misc. Petition No.275 of 1982.

(21) Having heard learned counsel for the parties, the following points arise for decision-making :

I. Whether the petitioners, particularly petitioner No.1, could be regarded as *pro bono* public characters and whether at their instance the Court is obliged to go into the merits of the issues brought before the Court by way of this PIL?

II. Whether the writ petition is liable to be dismissed in *limine* on the ground of delay and laches?

III. In view of the initiation of the fresh proceedings by the Competent Authority in respect of the lands which are not declared as surplus in the first set of ceiling cases and since those proceedings are pending before the Competent Authority for decision, is there any necessity for this Court to deal with the issues that arise for decision on merit ?

IV. If the Court were to consider the merits of the matter,

(a) Whether area of 1001.81 acres of land situate in Shivpuri village, District Raigarh belonging to ex-proprietor Hariprasad Naik have already vested in the State with effect from 31-03-1951 by virtue of the provisions of 1950 Act and that no portion of the said land could be allotted/settled in the name of late Hariprasad Naik and his relatives ?

(b) Whether the Competent Authority has complied with the observation made by the Division Bench of the High Court of Madhya Pradesh in para 21 of its order in Misc. Petition No.275 of 1982 dated 04-01-1983 ?

(c) Whether the transfers of 346.73 acres of land out of 1001.81 acres of land in favour of the respondents 3 to 14 are illegal, because, the entire

1001.81 acres of land was already vested in the State Government as on the dates of the transfers ?

(d) Whether the execution of the sale-deeds are illegal and defective because of the improper stamp duty paid by the parties to the sale-deeds and on account of the non-registration of the power of attorney executed by the holders of the lands in favour of the their attorney ?

(22) **Re. Point No. I :**

This is another case in the series which brings to the fore how a noble, laudable and public justice-oriented legal process, that is what we call "Public Interest Litigation" (PIL) or "Social Interest Litigation" (SIL), which is essentially and initially meant to provide legal representation to previously unrepresented groups and citizens and to enforce public law obligations and rights to see that public justice does not suffer due to actions or inactions of public authorities, can be misused and abused by unscrupulous persons, without any element of public interest either in their heart or in mind, to have their own axe to grind against an individual for an oblique consideration and as a vexatious measure lending their names for the reasons best known to them. As already pointed out *supra*, petitioner No.1 is a practicing Advocate and partner of a law firm, namely, V.K. Munshi & Associates. In the return filed on behalf of the respondents 15 to 17 and 20 to 22 dated 25-03-2006, in para 1, it is stated that petitioner No.1 is a counsel for M/s Maruti which company is a rival in business of M/s Aryan owned by some of the contesting private respondents, referred to as Sindhu family by the petitioners in the petition. In the same para, it is also alleged that petitioner No.1 is the counsel of M/s Maruti and has filed vakalatnama on 20-01-2005 in a suit being civil suit No.90-A of 2004 filed by the SECL, pending on the file of the Court of Civil Judge Class-II,

Katghora, District Korba and filed written statement countering the allegations of the SECL in the suit. Meeting the above allegation of the respondents 15 to 17 and 20 to 22, the petitioners in their rejoinder styled as "short rejoinder" dated 04-04-2006 to the return of the respondents 15 to 17 and 20 to 22 dated 25-03-2006 have admitted the above allegation made by the respondents 15 to 17 and 20 to 22. In the 'short rejoinder' it is stated that on behalf of M/s Maruti, V.K. Munshi and Associates have filed vakalatnama which bears the signature of petitioner No.1 also. It is thus established and admitted that petitioner No.1 is a counsel for M/s Maruti and he has filed this PIL to sub-serve the interest of his client M/s Maruti at the peril of M/s Aryan which company is a rival in business to M/s Maruti. Of course, second petitioner claims to be a Free Lance Journalist. The contention of Shri K.N. Bhatt, learned senior counsel is that even the second petitioner was brought in to join the first petitioner for extraneous considerations. It was pointed out that nowhere in the writ petition the second petitioner's previous role as a social activist and filing any other PIL to espouse any public cause is disclosed. When this is the state of affairs relating to the background of the petitioners, the petitioners in their writ petition have claimed that they have filed this writ petition in the public interest to espouse the fraudulent transfers of more than 400 acres of forest land situated in village Shivpuri, P.C. No.15, Bandobast No.398, R.I. Circle, Block, Tehsil & District Raigarh belonging to the State of Chhattisgarh by respondents 3 to 14 in favour of respondents 15 to 24 through 13 different deeds of sale executed between 26-12-1996 to 16-08-2001, notwithstanding the fact that the aforesaid 400 acres of forest land had already vested in the State firstly by virtue of Section 3 of the 1950 Act and secondly by virtue of Section 12 of the 1960 Act.

(23) PIL has been a significant American development. The Council for Public Interest Law set up by the Ford Foundation in U.S.A., in its report **(1976) at pp. 6-7** defined PIL thus :

> "Public Interest Law is the name that has recently been given to efforts to provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in recognition that the ordinary market place for legal services fails to provide such services to significant segments of the population and to significant interests. Such groups and interests include the poor, environmentalists, consumers racial and ethnic minorities and others".

PIL programmes focus on policy-oriented cases, where a decision will affect large numbers of people or advance a major law reform objective. The consequences extend well beyond the particular litigants. PIL programmes are also designed to provide legal services to undeserved groups on matters of immediate concern only to the parties directly involved. PIL in India has been used for various types of reliefs for undertrial prisoners in jails, amelioration of the conditions of detention in protective homes for women, for medical check-up of remand home inmates, prohibition of traffic in women and children and relief for their victims, for the release of bonded labour, enforcement of other labour laws, e.g. full and direct payment of wages to workers or prohibiting the employment of children in construction work, acquisition of cycle rickshaws by licensed rickshaw pullers, relief against custodial violence to women prisoners while in police lock-up, for environmental protection, for enforcement of gender equality and protection from sexual harassment and the like. Such litigation envisages that a Court action by an individual or a group of individuals belonging to a community or

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an indeterminate class against an administrative wrong, remotely or equally affecting the members of that community or class; and that a Court action by a public spirited citizen or a body devoted to the public cause to vindicate the rights of individuals, groups or even the public at large against administrative wrongs, though the person or body undertaking the Court action may not have suffered any injury. Manifold reasons are stated to justify PILs; it provides a means to redress public wrongs which remained unremedied under the traditional rules of *locus standi;* the individuals or groups suffering from adverse administrative action may not themselves be in a position to undertake litigation to vindicate their interests because of poverty, ignorance, illiteracy, fear and other forms of socio-economic disabilities. In ***S.P. Gupta Vs. Union of India***[4] Bhagwati, J. has pointed out that individual rights and duties are giving place to meta-individual, collective, social rights and duties of classes or groups of persons.

(24) Two main propositions concerning PILs surface from the decisions of the Apex Court. In ***S.P. Gupta's case*** (supra) the Supreme Court has observed thus :

> ".....whenever there is a public wrong or public injury caused by an act or omission of the State or public authority which is contrary to the Constitution or the law, any member of the public acting bona fide and having sufficient interest can maintain an action for redressal of such public wrong or public injury."

Further the Supreme Court in ***Peoples Union for Democratic Rights Vs. Union of India***[5] has observed thus :

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4 AIR 1982 SC 149

5 AIR 1982 SC 1473

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> ".....where a person or class of persons to whom legal injury is caused or legal wrong is done is by reason or poverty, disability or socially or economically disadvantaged position not able to approach the Court for judicial redress, any member of the public acting *bona fide* and not of any extraneous motivation may move the Court for judicial redress of the legal injury or wrong suffered by such person or class of persons."

In both the propositions, an emphatic and terse caution is administered by the Supreme Court that the person approaching the Court for redressal of a public wrong or public injury has sufficient interest in the proceedings and is acting *bona fide* and not for personal gain or private profit or political motivation or other oblique considerations.

(25) In a recent decision in the case of **Dattaraj Nathuji Thaware vs. State of Maharashtra and others**[6], His Lordship Arijit Pasayat, J., speaking for the Supreme Court after considering the earlier decisions, in paras 11, 12 and 15 was pleased to observe thus :

> "11. It is depressing to note that on account of such trumpery proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and

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6. (2005) 1 SCC – 590

unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing the gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters – government or private, persons awaiting the disposal of cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from detention orders etc., etc; are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, brake the queue muffling their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the courts never moves, which piquant situation creates frustration in the minds of genuine litigants and resultantly they lose faith in the administration of our judicial system.

12. Public interest litigation is a weapon which has to be with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest, an ugly private malice, vested interest and/or publicity – seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social

justice to citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not be publicity – oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique considerations. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

15. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra Vs Prabhu and AP State Financial Corporation Vs GAR Re-Rolling Mills (1994) 2 SCC 647 : AIR 1994 SC 2151). No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. (See Buddhi Kota Subbarao (Dr) Vs K Parasaran (1996) 5 SCC 530 : 1996 SCC (Cri) 1038 : JT (1996) 7 SC

235). Today people rush to courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in courts and among the public."

(26) The Court, in this case need not add much to the abundance of the principles governing PILs. Dealing with PILs, the Hon'ble Apex Court, this Court and other High Courts in a catena of decisions quite extensively dealt with the questions, such as, who can be considered to be a *pro bono* public character, what kinds of dispute could be brought before the Constitutional Courts in the form of PILs, the circumspection to be exercised by the Courts before entertaining a PIL, the danger of entertaining applications filed under Article 226 of the Constitution with a façade or under a garb of PILs. To cite the few are the decisions of the Apex Court in ***M.C. Mehta Vs. Union of India***[7]; ***Vishaka Vs. State of Rajasthan***[8]; ***S.P. Anand Vs. H.D. Deve Gowda***[9]; ***Janata Dal Vs. H.S. Chowdhary***[10], ***Abdul Rehman Antulay and others Vs. R.S. Nayak and another***[11]; ***Kishan Patnaik Vs. State of Orissa***[12]; ***Sachidanand Pandey Vs. State of W.B.***[13]; ***Olga Tellis Vs. Bombay Municipal Corporation***[14]; ***State of Himachal Pradesh Vs. Parent of a Student Medical College Simla and others***[15]; ***Bandhua Mukti Morcha Vs. Union of India***[16]; ***People's Union for Democratic Rights Vs. Union of India*** (supra 5); ***S.P.Gupta Vs. Union of*** (supra 4); ***Fertilizer***

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7 (1998) 9 SCC 589
8 (1997) 6 SCC 241
9 (1996) 6 SCC 734
10 AIR 1993 SC 892
11 (1992) 1 SCC 225
12 1989 (1) SCALE 32
13 (1987) 2 SCC 295 = AIR 1987 SC 1109
14 (1985) 3 SCC 545
15 (1985) 3 SCC 169
16 AIR 1984 SC 802

Corporation Kagar Union, Sindri and others Vs . Union of India and others[17]; ***Hussainarakhatoon Vs. Home Secretary, State of Bihar***[18] ; ***Sunilbatra Vs. Delhi Administration***[19]; and ***M.H. Hoskot Vs. State of Maharashtra***[20].

(27) What can be gathered from these pronouncements can be stated briefly thus: Ordinarily it is the person aggrieved and directly affected who must seek the relief himself unless disabled from doing so on account of socio-economic disabilities and only in such event the law permits someone else to seek the relief on his behalf. PIL is essentially to ensure observations of the provisions of the Constitution or the law which can be best achieved to advance the cause of community or disadvantaged groups and individuals or public interest by permitting any person, acting *bona fide* and having genuine interest in maintaining an action for judicial redress for public injury to put the judicial machinery in motion like ***actio popularis*** of Roman Law whereby citizen could bring such an action in respect of a public delict. Individual dispute cannot be subject matter of a PIL and any attempt in that regard should be discouraged by the Court, and it is only in the clearest of cases of general affectation of right of the community at large or a wide variety of cross-section of people, the Court would extend its assistance by entertaining a PIL so as to avoid any social or general mischief having due regard to the concept of justice. However, only a person acting *bona fide* and having sufficient interest in the proceeding of PIL will alone have a *locus standi* and can approach the

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17 (1981)1 SCC 568
18 AIR 1979 SC 1360
19 AIR 1978 SC 1675
20 AIR 1978 SC 548

Court for the poor and needy, suffering from violation of their fundamental rights or other legal rights and to enforce public law duties against the administration. But a person for personal gain or private profit or political motive or any oblique consideration has no *locus standi.* Similarly, a vexatious petition under the colour or garb of PIL brought before the Court for vindicating any personal grievance or grievance of one's friend or client or principal deserves rejection at the threshold. The Court should not allow its process to be abused by mere busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest in their mind or heart except for personal gain or private profit or political mileage either for themselves or as proxy of others or for any other extraneous motivation or collateral consideration or for gaining publicity.

(28) Two recent judgments of the Hon'ble Supreme Court have highlighted the importance of the *locus standi* of the petitioners while dealing with PILs. In **T.N. Godavarman Thirumulpad vs. Union of India and Others (supra 1)** doubts were cast on the *bona fides* of the petitioner Deepak Agrawal. In that case, in support to the doubts about the *bona fides* of the petitioner, it was alleged that one KK Shrivastava appeared for Deepak Agrawal in a couple of occasions before the CEC and the same KK Shrivastava had also represented M/s Aryan in Revenue proceedings and elsewhere and otherwise closely connected with M/s Aryan who is admittedly a rival of M/s Maruti. Having noted these facts, the Hon'ble Supreme Court proceeds to observe in paras 22, and 23 as follows :-

> "22. However, before we consider the aforesaid question, **first the *bona fides* of the applicant need to be determined.** In opposition to the application

filed by Deepak Aggrawal, it has been urged that the label of public interest given by the applicant in the present litigation, is clearly and demonstrably a camouflage since the real person behind this application allegedly filed in public interest is a competitor of Maruti operating in the area and having a monopoly."

"23.... But before we examine the question of the nature of the land being forest or not, it is necessary to consider the *bona fides* of Deepak Aggrawal who has approached this Court in public interest. Howsoever genuine a cause brought before a court by a public interest litigant may be, the court has to decline its examination at the behest of a person, who, in fact, is not a public interest litigant and **whose *bona fides* and credentials are in doubt.** In a given exceptional case where ***bona fides* of a public interest litigant are in doubt,** the court may still examine the issue having regard to the serious nature of the public cause and likely public injury by appointing *amicus curiae* to assist the court but **under no circumstances with the assistance of a doubtful public interest litigant.** No trust can be placed by the court on a *mala fide* applicant in public interest litigation. **These are basic issues which are required to be satisfied by every public interest litigation."**

(*Emphasis supplied by the Court in both paragraphs*)

(29) What the Hon'ble Apex Court observed in paras 5, 13, 15, 16 & 17 of the judgment in the case of ; **Kushum Lata vs. Union of India and Others (Supra 2)** is apt to be noted and they read as follows :-

"5. When there is material to show that a petition styled as a public interest litigation is nothing but a

camouflage to foster personal disputes, the said petition is to be thrown out. Before we grapple with the issue involved in the present case, we feel it necessary to consider the issue regarding public interest aspect. Public interest litigation which has now come to occupy an important field in the administration of law should not be "publicity interest litigation" or "private interest litigation" or "politics interest litigation" or the latest trend "paise income litigation". The High Court has found that the case at hand belongs to the second category. If not properly regulated and abuse averted, it becomes also a tool in unscrupulous hands to release vendetta and wreak vengeance, as well. There must be real and genuine public interest involved in the litigation and not merely an adventure of a knight errant borne out of wishful thinking. It cannot also be invoked by a person or a body of persons to further his or their personal causes or satisfy his or their personal grudge and enmity. The courts of justice should not be allowed to be polluted by unscrupulous litigants by resorting to the extraordinary jurisdiction. A person acting *bona fide* and having sufficient interest in the proceeding of public interest litigation will alone have a *locus standi* and can approach the court to wipe out violation of fundamental rights and genuine infraction of statutory provisions, but not for personal gain or private profit or political motive or any oblique consideration. These aspects were highlighted by this Court in **Janata Dal Vs HS Chowdhary (1992) 4 SCC 305 : 1993 SCC(Cri) 36 and Kazi Lhendup Dorji Vs CBI 1994 Supp (2) SCC 116 : 1994 SCC (Cri) 873.** A writ petitioner who comes to the court for relief in public interest must come not only with clean hands like any other writ petitioner but also with a clean heart, clean mind and clean objective. **(See Ramjas Foundation**

Vs Union of India 1993 Supp (2) SCC 20 : AIR 1993 SC 852 and KR Srinivas Vs RM Premchand (1994) 6 SCC 620.)

13. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. As indicated above, the court must be careful to see that a body of persons or member of public, who approaches the court is acting *bona fide* and not for personal gain or private motive or political motivation or other oblique considerations. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives, and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

15. The court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The

information should show gravity and seriousness involved. The court has to strike a balance between two conflicting interests: (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect.

16. The courts must do justice by promotion of good faith and prevent law from crafty invasions. The courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See State of Maharashtra Vs Prabhu (1994) 2 SCC 481: 1994 SCC (L&S) 676 : (1994) 27 ATC 116 and AP State Financial Corpn Vs GAR Re-Rolling Mills (1994) 2 SCC 647 : AIR 1994 SC 2151) No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions (See Buddhi Kota Subbarao (Dr.) Vs K Parasaran (1996) 5 SCC 530 : 1996 SCC (Cri)1038 : JT (1996) 7 SC 265). Today people rush to the courts to file cases in

profusion under this attractive name of public interest. They must inspire confidence in the courts and among the public.

17. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that the courts are flooded with a large number of so-called public interest litigations where only a minuscule percentage can legitimately be called as public interest litigation. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, the courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in **Duryodhan Sahu (Dr.) v. Jitendra Kumar Mishra (1998) 7 SCC 273 : 1998 SCC (L&S) 1802 : AIR 1999 SC 114,** this court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters by competitors continue unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out the truth and motive behind the petition. Whenever such frivolous pleas, as noted are taken to

> explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs. It is also noticed that the petitions are based on newspaper reports without any attempt to verify their authenticity. As observed by this Court in several cases, newspaper reports do not constitute evidence. A petition based on unconfirmed news reports, without verifying their authenticity should not normally be entertained. As noted above, such petitions do not provide any basis for verifying the correctness of statements made and information given in the petition. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."

(30) In this case, petitioner No.1 Amit Singh Walia has admittedly filed Vakalatnama for M/s. Maruti in a pending serious litigation relating to title to the property on which M/s. Maruti wishes to set up a washery. In the return filed on behalf of respondents 15 to 17 & 20 to 22, dated 25-03-2006, the following averments are made :

> "That in addition and without prejudice to the application filed for dismissal of the petition on behalf of the answering respondents it is reiterated that the petitioner No.1 is a counsel for M/s Maruti Clean Coal and Power Limited (for short M/s Maruti) which company is a rival in business of the company in the name of M/s Aryan owned by some of the answering respondents (referred to also as Sindhu family by the petitioners in the petition). The aforesaid petitioner No.1alongwith another counsel namely Manish Yadav (in whose conjunction the petitioner No.1 has also filed PIL W.P. No. 737/2006, 3697/2005 & 310/2006

against the family members and the company owned by some of the answering respondents and other counsels have executed a Vakalatnama in Civil Suit No. 90-A/2004 pending in the Court of Civil Judge, Class-II, Katghora (District Korba) dated 20-01-2005 countering the allegations of the SECL that the aforesaid M/s Maruti have encroached forest lands belonging to SECL. Obviously infuriated due to the aforesaid facts and reasons M/s Maruti have got the instant petition filed and therefore it not being a bonafide PIL needs to be dismissed in limine. "

(31) In reply, the petitioners have stated in their 'short rejoinder' dated 04-04-2006, as follows :

"The averments made in this para are absolutely false and highly misleading and as such the petitioners emphatically repudiate and deny the same. Save and except that the law firm namely V.K. Munshi & Associates wherein the petitioners are working as Associates is representing Maruti Clean Coal and Power Limited as second Defendant in Civil Suit No.90A/2004 pending in the Court of Civil Judge Class-II, Katghora and being Associates, the Vakalatnama filed in the said Civil Suit by the said law firm in the above Civil Suit bears their signatures the rest of the averments made in this para are absolutely false and highly misleading. Even the said Civil Suit is being handled by the other Senior Associates of the said law firm. Apart from the above Civil Suit, the petitioners have never represented or are representing the said Maruti Clean Coal and Power Limited in any other litigation pending before any court in the Indian Sub-continent. "

(32) In the course of arguments, Shri K.N. Bhatt would contend that the petitioner has not only filed this writ petition to sub-serve the interest of his

client M/s Maruti, but he has also filed number of PILs in this Court lending his name to sub-serve the interest of his client M/s Maruti. Shri K.N. Bhatt would particularly draw attention of the Court to Writ Petition Nos. 737 of 2006, 3697 of 2005 and 310 of 2006 which are filed as PILs and which are pending in this Court.

(33) We have perused the records of the above writ petitions. Writ Petition No.737 of 2006 is filed by Manish Yadav and Ashish Purohit, Advocates as a Public Interest Litigation for a direction to the Union of India, State of Chhattisgarh, Principal Chief Conservator of Forest, Divisional Forest Officer, Joint Divisional Forest Officer, the respondents 1 to 5 respectively therein to prevent M/s Aryan Coal Beneficiation Pvt Ltd., the sixth respondent therein, from carrying on the activities of coal beneficiation plant established by them and several other reliefs. In the return filed by the sixth respondent, it is stated that the petitioners are the advocates of M/s Maruti, and Shri Ram Avatar Agrawal, Director of M/s Maruti has executed Vakalatnama in their favour on 20-01-2005 to prosecute the case on their behalf in a Civil Suit No.90-A of 2004, pending in the Court of Civil Judge Class II, Katghora, District Korba, instituted by the SECL. The sixth respondent has filed certified copy of the Vakalatnama with their return. It is stated at the Bar that these two petitioners are also partners of V.K. Munshi & Associates, a law firm in Raipur.

(34) Writ Petition No.3697 of 2005 is filed by Amit Singh Walia and Manish Yadav, Advocates as a PIL praying for quashing of certain sale transactions entered into between the original owners and respondents 2 to 6. In that writ petition M/s Aryan Coal Beneficiation Ltd, Captain

Rudrasen Sindhu, Kripal Sindhu, Britpal Singh Sindhu, M/s Sindhu Holdings Pvt Ltd have been arrayed as respondents 2 to 6, respectively.

(35) Writ Petition No.310 of 2006 is also filed by Amit Singh Walia and Manish Yadav, Advocates as a PIL. In that petition, directions are sought against Gujarat State Electricity Company Ltd., and SECL, the respondents 3 & 4 respectively therein, to lift the coal rejects and not to permit M/s Aryan, the fifth respondent therein, to retain coal rejects generating in the process of washing of raw coal entrusted to M/s Aryan.

(36) Shri K.N. Bhatt, learned Senior counsel would submit that in addition to the above writ petitions, several other writ petitions are also filed by the same set of advocates and other partners of VK Munshi and Associates who are admittedly the advocates of M/s Maruti.

(37) On a verification of the records of the above writ petitions, we found that the allegations are correct and in all those writ petitions if the reliefs claimed are granted, they would undeniably favourable to M/s Maruti and prejudicial to M/s Aryan.

(38) It needs to be noticed that the judgment of the Supreme Court in **T.N.Godavarman Thirumulpad Vs. Union of India (Supra 1)** has laid the emphasis on the *bona fides* credentials of the petitioners being in doubt and not proven *mala fides*. This aspect of doubt has been again and again highlighted by the Hon'ble Supreme Court in the course of the judgment and the Hon'ble Supreme Court in emphatic terms has mandated that the Courts in India should not allow a person of doubtful *bona fides* to interfere with judicial process. In the premise of the law laid down by the Apex Court in large number of judgments including the latest

judgment in **T.N.Godavarman Thirumulpad Vs. Union of India (Supra1)** and Kushum **Lata vs. Union of India and Others (Supra 2),** the minimum that can be said in this case is that the *bona fides* of Shri Amit Singh Walia – Petitioner No.1are in serious doubt. We are also of the considered opinion that Shri Amit Singh Walia being admittedly a counsel for M/s Maruti in a most contentious suit filed by the SECL pending in the Civil Court, ought not to have filed this writ petition or other writ petitions where the rights and interests of his client M/s Maruti are at stake, that too, without disclosing the same, in the first instance. Only after respondents 15 to 17 and 20 to 22 filed their pleadings disclosing that Mr. Amit Singh Walia in conjunction with other colleagues of his law firm has filed number of PILs in this Court against the same respondents viz., members of Sindhu family, they came out with their connection as counsel for M/s Maruti in the rejoinder. At this stage itself, it needs to be noticed that most of the PILs instituted by Mr Amit Singh Walia in conjunction with his colleagues and others are directed against the interest of their client's business rival, viz, members of Sindhu family (M/s Aryan). These averments have not been refuted and cannot be refuted also.

(39) If the principles governing the PILs as laid down by the Hon'ble Supreme Court in large number of cases including those briefly referred to above are applied to the facts of this case, can it be said that the petitioners are *pro bono* public characters? The answer should be an emphatic 'no'. There is a total lack of *bona fide* in the action of the petitioners in instituting this writ petition as a PIL. On the other hand, it is satisfactorily established that this writ petition is filed in the garb of PIL as agents of M/s Maruti, as a vexatious measure to sub-serve the interest of their masters M/s Maruti and harm the interest of their master's business

rival, viz, M/s Aryan – members of Sindhu family. In that view of the matter, as the Hon'ble Supreme Court has observed, there is no need for us to deal with the matter on merit at the instance of such unscrupulous, name lending petitioners. Therefore, we hold that the petitioners are not *pro bono* public characters and at their instance, the issue brought before the Court need not be decided on merit. The facts disclosed in the case would cast serious doubt on the *bona fides* of the petitioners.

(40) However, as held by the Hon'ble Supreme Court in the case of **Guruvayoor Devaswom Managing Committee and another Vs CK Rajan and others**[21], the Court in an appropriate case, although the petitioner might have moved the Court in his private interest and for redressal of the personal grievances, the Court in furtherance of the public interest may treat it necessary to enquire into the state of affairs of the subject of litigation in the interest of justice. The observation made by the Hon'ble Supreme Court in the case of **Ashok Lanka Vs Rishi Dixit**[22] is also to the same effect. Furthermore, in para 23 of the judgment of **T.N. Godavarman Thirumulpad vs. Union of India and Others (Supra 1)** the Hon'ble Supreme Court was pleased to observe that in a given exceptional case where *bona fides* of a public interest litigant are in doubt, the Court may still examine the issue having regard to the serious nature of the public cause and likely pubic injury by appointing an *amicus curiae* to assist the Court but under no circumstances with the assistance of a doubtful public interest litigant. No trust can be placed by the Court on a *mala fide* applicant in public interest litigation. These are the basic issues

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21. (2003) 7 SCC 546

22. AIR 2005 SC 2821

which are required to be satisfied by every public interest litigation. Although, we are fully satisfied and that we have no doubt that this writ petition filed by Amit Singh Walia and another is far from being *bona fide*, and that they have been set up by M/s Maruti and we strongly deprecate the filing of the motivated petition to sub-serve the interest of their clients, nay, may we say, their masters M/s Maruti, we do not wish to dismiss the writ petition in *limine* on that ground. We have another weighty and substantive ground not to dismiss the writ petition in *limine*, because, for the reasons to be stated presently we cannot take-up adjudication of the merits of the issues brought before this Court by way of this PIL.

(41) **Re – Point No. II :**

Although, Shri K.N. Bhatt and Shri Manindra Shrivastava as well as learned Additional Advocate General strongly appealed to the Court to dismiss the writ petition in *limine* on the ground of laches inasmuch as the petitioners are seeking to reopen the issues concluded during 1950s and 1960s under the 1950 Act and 1960 Act, we are of the considered opinion that any decision we may take on that point would come in the way of the Competent Authority exercising its statutory power. Therefore, we leave the question of delay and laches open to be urged before the Competent Authority or any other Statutory Authorities or before the Court, at a later stage in appropriate proceedings.

(42) Before concluding the discussion on point No.2, a word or two about the accountability of the petitioners in moving this Court by way of this petition under Article 226 of the Constitution of India under the garb of PIL. The time of the Court is public time; it is neither the time of the Judges nor the time of the litigant or his counsel; the public time should be

spent judiciously and economically; insistence of such rule is absolutely necessary particularly in the context of alarming pendency of cases in Law Courts and other judicial and quasi-judicial fora today. The Court's time should not be allowed to be misused or abused by unscrupulous litigants or busy-bodies in the garb of PILs. That is also responsibility cast on the learned members of the Bar in espousing the cause of the public by way of PILs. Lawyer plays a very crucial and important role in public interest litigation. His duty and responsibility to the Court in a Public Interest Litigation case is even greater in comparison to usual cases. The Lawyers' repertoire and forensic skills and craftsmanship are central to a purposeful use of judicial processes as instruments of institutional reforms. An Advocate is an integral part of administration of Justice. The legal fraternity and judiciary are the two sides of the same coin. The Court would not be wrong in expecting that every advocate would conduct himself in responsible manner and assist the Court properly in discharge of this legal and constitutional obligations. They do act, plead and advocate the cause of the clients but their duty to Court is much higher than that of serving their clients. It is stated that every advocate is an *amicus curiae*, a friend of the Court; his first loyalty is to the Court and not to his client. The Court's time is not meant for the satisfaction of the ego of a judge who presides over the Court that he knows the whole law correctly and there cannot be a second opinion on the point addressed to the Court, nor to satisfy the counsel himself who appears for a party that he could put forth any plea or point irrespective of its tenability in the legal premise, nor to please a party sitting behind his counsel that his counsel did argue the case on his behalf marvelously and to his satisfaction. Adjudicatory deliberations in a Law Court are serious pursuits, and they

should receive responsible and constructive co-operation from both the partners of the institution, and both of them shall practice and do everything at their command to save the precious time of the Court without sacrificing justice. Such a course has become imperative necessity in the Constitutional Courts, particularly in this Court where the accumulation of the cases is alarming as well as long pending, but Judge-strength is totally inadequate for years. Fruitful management of the Court's time is need of the hour and that cannot be achieved without constructive co-operation between the Bar and the Bench.

(43) It must be remembered that advocate is an officer of the Court and enjoys special status in the society. The practice of law has a public utility flavour and, therefore, he must strictly and scrupulously abide by the code of conduct behoving the noble profession and must not indulge in any activity either directly or indirectly which may tend to lower the image of the noble profession in society. An advocate should know that he belongs to a nobility. The legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honourable and noble members. The honour of an advocate cannot be sold for a price or any extraneous considerations in order to help an unscrupulous litigant. Professional integrity and high ethical standards are the badge of honour of a lawyer, and his reputation should not be tarnished by disreputable conduct or deviant behaviour. Society and public are interested in due administration of justice, and hence a lawyer owes a duty to society and Court and he is not supposed to encourage dishonesty or practice dishonesty himself. Having regard to the unique place of lawyer in society and in the administration of justice, society expects the highest standard of ethics, probity, integrity and good behaviour from the legal

profession. Not only in our country, but the world over, Courts of law have been reminding the legal community about the importance of ethics and the duty to Court and society. In the words of Cardozo " ***a lawyer's life is no life of cloistered ease to which you dedicate your powers. This is a life that touches your fellow men, of every angle of their being, a life that you must live in the crowd, and yet apart from it, man of the world and philosopher by turns".*** Lord Bolinbroke observed that ***" the profession of law in its nature is the noblest and most beneficial to mankind, is in its abuse and 'debasement the most sordid and pernicious'. "*** Justice Brandies observed that ***" the special opportunities are usefulness to fellow men collectively and lawyers have an opportunity to raise the moral tone of society."*** The Hon'ble Supreme Court in the case of **Shambhu Ram Yadav Vs. Hanuman Das Khatry** [23] held that the credibility and reputation of the legal profession depend upon the manner in which advocates conduct themselves. Alas! whether petitioner No.1 has lived up to the above expectations is the mute question for introspection and correction.

(44) Time has come for the Constitutional Courts not only to nip the unscrupulous and unjustified PILs at the bud but also to make the movers of such PILs accountable in concrete terms. Mere disapproval of such PILs by the Courts by way of observations in the judgment will not help the public justice in the long run. The State spends huge sums of money out of the limited resources to provide, maintain and conduct apparatus of adjudicatory processes. If the Court finds that the adjudicatory process is abused or misused wantonly by a person under the garb of PIL, it is but

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23. AIR 2001 SC 2509 : (2001) 6 SCC 1

necessary to make him accountable for his litigative luxury, in order to sub-serve the public interest. Public interest will never be permitted to suffer in a Public Interest Litigation. That can be achieved by imposing exemplary costs. One cannot have the pleasure of an unjustified PIL at the cost of the public just paying Rs. 100/- towards Court fee, a pittance when compared to the actual cost incurred by the State.

(45) The Supreme Court in ***Janata Dal vs. H.S. Chowdary*** (**supra 10**) expressed its total displeasure and disgust in wasting the Court's time on account of trumpery proceedings initiated under the garb of PILs in the following words:

> "It is depressing to note that on account of such trumpery proceedings initiated before the Courts innumerable days are wasted which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we are second to none in fostering and developing the newly invented concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal case in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from the undue delay in service matters, Government or private persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their

release from the detention orders, etc.etc., - are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busy bodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either for themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffling their faces by wearing the mask of public interest litigation, and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts and as a result of which the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly they loss faith in the administration of our judicial system."

(46) A person who desires to persist with his view point despite the fact that the point which he canvases before a judge or Bench has no legs to stand by the binding decisions of the Apex Court and in the process wastes the Court's time shall be made to pay the price for the wastage of public time, at least notionally, if not fully. Such course is a 'must' not only to curb unjustified and vexatious PILs but also to do justice to the public. The following observation of the Supreme Court in ***S.P. Anand vs. H.D. Deve Gowda*** **(supra 9)** is apt to be quoted:

"...it must also be borne in mind that no one has a right to the waiver of the *locus standi* rule and the Court should permit it only when it is satisfied that the carriage of proceedings in the competent hands of a person who is genuinely concerned in public interest and is not moved by other extraneous considerations. So also the Court must be careful to ensure that the process of the Court is not sought to

> be abused by a person who desires to persist with his point of view almost carrying it to the point of obstinacy by filing a series of petitions refusing to accept the Court's earlier decisions as concluding the point. We say this because when we drew the attention of the petitioner to earlier decisions of this Court, he brushed them aside, without so much as showing willingness to deal with them and without giving them a second look, as having become stale and irrelevant by passage of time and challenged their correctness on the specious plea that they needed reconsideration he had no answer to the correctness of the decisions. Such a casual approach to considered decisions of this Court even by a person well-versed in law would not be countenanced. Instead, as pointed out earlier he referred to decisions having no bearing on the question like the decisions on cow slaughter cases, freedom of speech and expression, uniform civil code etc. we need say no more except to point out that indiscriminate use of this important lever of public interest litigation would blunt the lever itself."

(47) This PIL was heard for final hearing and disposal on three days i.e., 05-09-2006, 06-09-2006 and 07-09-2006. Learned counsel for the petitioners despite our telling repeatedly that since the Competent Authority has already initiated proceedings in respect of the lands which are not declared as surplus in the first set of ceiling cases, we cannot foreclose the enquiry by the Competent Authority, and several reliefs sought in the PIL cannot be granted without knowing the result/outcome of the enquiry by the Competent Authority, wasted the Court's time while making unwanted and avoidable submissions. If the Court were to hear long pending cases during the same time, it would have disposed of

atleast few cases. Therefore, it is a fit case in which the petitioners should be saddled with exemplary costs for their litigative luxury, otherwise, there will be failure of justice and that public justice should not be allowed to suffer in a PIL.

(48) **Re – Point Nos. III & IV :**

Although, there is no direction by the Division Bench of the High Court of Madhya Pradesh in Misc. Petition No.275 of 1982 dated 04-01-1983 to the Competent Authority to take fresh proceedings and it only observed that it would be open to the Competent Authority to take fresh proceedings, the Competent Authority in due deference to the above observation of the Division Bench of the High Court of Madhya Pradesh has initiated the fresh proceedings in respect of the lands covered by the ceiling case Nos.16-A/90-B/74-75; 18-A/90-B/74-75 and 766-A/90-B/74-75 against Hariprasad Naik, Krishna Kumari and Tarlika Kumari with regard to the lands which are not declared as surplus in the first set of ceiling cases, against those persons and/or their legal representatives. Although, it was contended by the petitioners that notices were issued by the Competent Authority to dead persons, in the course of hearing, learned Additional Advocate General on the basis of the records would submit that though initially notices were issued only to those whose names were shown in the revenue records on the appointed date, later when the legal representatives of those persons came forward and brought it to the notice of the Competent Authority that some of the holders as on the appointed date died, such legal representatives were allowed to come on record. Since the Statutory Authority has seized off the issue brought before this Court, it is not permissible nor expedient for this Court to foreclose

adjudication of the issues by the Statutory Authority and undertake adjudication of the merits of the issues as if this Court is a Statutory Authority. Whether several reliefs claimed by the petitioners in the writ petition can be granted or not would depend upon the outcome of the proceedings already initiated by the Competent Authority. Similarly, consideration of the points raised by the petitioners in paragraphs A,B,C,D,E,F,G,H,I,J,K,L,M,N,O,P & Q of the memorandum of writ petition, by this Court would not arise inasmuch as the Competent Authority has seized off the issues. Therefore, any observation that may be made by us or any finding that may be recorded on any of the issues brought before this Court would undeniably influence the mind of the competent authority in decision-making. This Court cannot, at this stage, foreclose the adjudication of the issues by the Competent Authority. In other words, the competent authority should be at liberty and is free to exercise its power and discretion strictly in accordance with law and on the basis of relevant materials and evidence that may be placed before it. Therefore, we leave open all issues touching merit to be addressed to the Competent Authority for its decision. Shri BP Sharma, learned counsel for the petitioners would also agree with this position. In fact, after the State Government filed their return disclosing initiation of the fresh proceedings by issuing notices under the 1960 Act, the petitioners filed their further pleadings styled as "Brief Written Submissions". In para 9 of the said 'Brief Written Submissions', it is stated thus :

> "However, since the Respondent No.1 and 2 have already reopened the second set of ceiling cases in compliance of the directions contained in Para 21 of the Judgment of the MP High Court as mentioned by them in their Return, the law should be allowed to

take its own course by directing the Competent Authority under the 1960 Act to take immediate possession of the entire area of 401.60 ha of land mentioned in the Chart Annexure-P/3 pending final disposal of the three ceiling cases already reopened by them vide Annexure-R/1 to R/3 and the false defence taken by the Respondent Nos. 5, 6, 7, 8 & 10 as the Vendors and by the respondent No.15, 16, 17, 20, 21 and 22 as the Vendees ought to be rejected and discarded at the threshold by the Hon'ble Court."

(49) In view of the common case of all the parties that since the Statutory Authority has already reopened the case and initiated the proceedings as permitted by the Division Bench of the High Court of Madhya Pradesh in its order passed in Misc.Petition No.275 of 1982, there is no need to adjudicate upon the points III & IV and we leave them open. However, we make it clear that the request of the petitioners at this stage to direct that the Collector, Raigarh to take charge of the entire area of 1001.81 acres of forest land comprised in ex-proprietary village Shivpuri in accordance with Section 7 of the 1950 Act as prayed in prayer (B) in the main Writ Petition or the prayer in para 9 of the 'Brief Written Submissions' to direct "the Competent Authority under the 1960 Act to take immediate possession of the entire area of 401.60 ha. of land mentioned in the chart .Annexure-P/3" are totally misconceived and cannot be granted at this stage. It is for the Competent Authority to first conduct an enquiry and determine what is the extent of the land which is vested in the State under the 1950 Act and/or 1960 Act. Without deciding that question, taking over possession of the land by the State would not arise.

(50) In the result and for the foregoing reasons, we dismiss the writ petition with costs quantified at Rs.25,000/-, payable to the Chhattisgarh High Court Legal Services Committee, within a period of 15 days from today.

Sd/-
Chief Justice
19/09/2006

Sd/-
Dilip Raosaheb Deshmukh
Judge
19/09/2006

Subbu